

AMENDMENTS TO THE DRAWINGS

Please amend the drawings as shown on the enclosed replacement sheets. In particular, in Fig. 3B, the reference number 78 near the top left of the figure is changed to reference number 79 (as originally filed). In Fig. 7B, reference number 177 on the right side of the figure is changed to reference number 179 (as originally filed). These amendments to the drawings correct minor typographical errors that were inadvertently included in the replacement drawings filed with the response to missing parts, which was filed October 27, 2004. No new matter is added.

Attachments: replacement sheets

REMARKS

Claims 1-24 were pending. By this amendment, claims 1, 2, 4, 12-14, 21 and 24 are amended, claims 7-10, 17-20, and 22 are canceled, and claims 25-27 are added. Support for the amendments and added claims may be found in the specification and claims as originally filed. No new matter is added. As a result, claims 1-6, 11-16, 21, and 23-27 are pending and at issue.

Claim Objections

Claim 21 is amended to correct the informality alleged on page 3 of the office action. Thus, the objection to claim 21 is moot and should be withdrawn.

35 U.S.C. § 112 Rejections

Claims 4, 6, 12, 21, and 24 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The applicants respectfully traverse the rejections and submit that they should be withdrawn.

Claims 4, 12, 21 and 24 are amended to correct typographical errors. The applicants respectfully submit that claims 4, 6, 12, 21, and 24 were not indefinite under 35 U.S.C. §112, however, because a claim is considered definite as long as "the scope of the claims is clear so the public is informed of the boundaries of what constitutes infringement of the patent." *See* M.P.E.P. §2173. Nevertheless, the rejections of claims 4, 6, 12, 21, and 24 for indefiniteness should be withdrawn in view of the amendments to claims 4, 12, 21, and 24 presented herein.

35 U.S.C. § 102 Rejections

The applicants respectfully traverse the rejection of claims 1, 5, 11-13, 15, 16, 23, and 24 as anticipated by either U.S. Patent No. 5,816,674 to Manos et al. ("Manos") or U.S. Patent No. 6,193,340 to Schenker et al. ("Schenker"). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987). Each of claims 1, 5, 11-13, 15, 16, 23, and 24 recites a storage container comprising, *inter alia*, a storage frame and a container lid, the container lid including "a pivot extending from a side portion thereof and adapted to nest in a depression

formed in at least one of the side frames.” Neither Manos nor Schenker discloses or suggests a container lid that includes a pivot extending from a side portion of the container lid.

In particular, Manos discloses a stackable container assembly that includes a housing and a cover adapted to be releasably attached to the housing. *See* Manos, abstract. However, the cover of the Manos device does not include pivots of any sort, let alone pivots extending from a side portion of the cover. *See* Manos, Figs. 1, 3, 5, and 7. The cover 32 has a depending peripheral flange 64 that interlocks with the upper ends of the side walls 34. *See* Manos, col. 3, lines 34-46. The flange 64 cannot be considered a pivot. Further, the cover 32 does not need pivots, because the cover 32 locks into place on the side walls 34 and is not intended to be removed or opened for access into the interior of the storage container. Moreover, the cover 32 must remain secured to the side walls 34 to “restrain” a second storage container “against lateral movement” when “forming a vertical stack of a plurality of [such] assemblies.” *See* Manos, col. 3, lines 55-60. As a result, Manos fails to disclose or suggest a container lid including a pivot extending from a side thereof and adapted to nest in a depression formed in at least one of the side frames, as is recited by each of claims 1, 5, 11-13, 15, 16, 23, and 24. The applicants respectfully request withdrawal of the rejection of claims 1, 5, 12, 13, 15, 16, and 24 as anticipated by Manos.

Similarly, Schenker discloses a snap-together file storage system including a cabinet with a forwardly-opening cavity, the cabinet having a plurality of plastic panels that are locked together by way of tabs. *See* Schenker, abstract. The Schenker device includes a top panel 42 that has one or more flexible tabs 78. *See* Schenker, col. 3, lines 15-17. However, the flexible tabs are not pivots. The flexible tabs 78 are inserted into slots or collars 86 and lock the panels into position. *See* Schenker, col. 3, lines 20-22. The top panel 42 is not pivotable, nor could the top panel be pivotable because the tab-in-slot arrangement will not allow pivoting of any kind. Thus, Schenker fails to disclose or suggest a container lid including a pivot extending from a side portion thereof and adapted to nest in a depression formed in at least one of the side frames, as is recited by each of claims 1, 5, 11-13, 15, 16, 23, and 24. The applicants respectfully request withdrawal of the rejection of claims 1, 11-13, 15, 16, and 23 as anticipated by Schenker.

35 U.S.C. § 103 Rejections

The applicants respectfully traverse the rejection of claims 1-6, 11-16, 21, 23, and 24 as obvious over one or more of Manos, U.S. Patent No. 5,205,413 to Cautereels et al. ("Cautereels"), and U.S. Patent No. 5,125,697 to Kahl et al. ("Kahl"). To establish a *prima facie* case of obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations." M.P.E.P. § 2143. The cited art fails to disclose or suggest all claim limitations. In particular, the cited art fails to disclose or suggest a container lid including a pivot extending from a side portion thereof and adapted to nest in a depression formed in at least one of the side frames.

As shown above with respect to the 35 U.S.C. § 102 rejections, Manos fails to disclose or suggest this element.

Likewise, Cautereels fails to disclose or suggest a container lid including a pivot extending from a side portion thereof and adapted to nest in a depression formed in at least one of the side frames. In particular, Cautereels discloses a lunchbox with a reversible cover including a wedge-shaped tray, a wedge-shaped cover and a latch assembly locking the cover to the tray. *See* Cautereels, abstract. However, the cover does not include pivots of any sort, let alone pivots that are adapted to nest in a depression formed in at least one of the side frames. The Cautereels cover 14 includes a pair of locking bars 64 which define latch keepers. *See* Cautereels, col. 4, lines 44-45. These locking bars 64 are not pivots because the cover 14 does not pivot about these locking bars 64. In fact, when the cover 14 is opened, the cover rotates about a living hinge 36 integrated with the latch 32, which is on the tray. Thus, Cautereels fails to disclose or suggest a container lid including a pivot extending from a side portion thereof and adapted to nest in a depression formed in at least one of the side frames, as is recited by each of claims 1-6, 11-16, 21, 23, and 24.

Similarly, Kahl fails to disclose or suggest a container lid including a pivot extending from a side portion thereof and adapted to nest in a depression formed in at least one of the side frames. Kahl discloses a lockable latch for a container including a base 12, a cover 11 and a latch assembly 13. *See* Kahl, abstract. While the cover 11 of the Kahl device includes a skirt 15 forming a recessed ledge 21, the recessed ledge is not a pivot. *See* Kahl, col. 3, lines 16-17. The ledge 21 "rests on lip 23 of the base portion 12 to close cover 11 on the base

portion 12." See Kahl, col. 3, lines 22-23. Thus, Kahl fails to disclose or suggest pivoting the cover 11 in any way, let alone providing pivots extending from a side portion of the cover that are adapted to nest in a depression formed in at least one of the side frames, as is recited by each of claims 1-6, 11-16, 21, 23, and 24.

Because the cited art fails to disclose or suggest each and every limitation recited in claims 1-6, 11-16, 21, 23, and 24, none of claims 1-6, 11-16, 21, 23, and 24 can be rendered obvious by any combination thereof. As a result, the applicants respectfully request withdrawal of the rejection of claims 1-6, 11-16, 21, 23, and 24.

Conclusion

For the foregoing reasons, the applicants respectfully request reconsideration and allowance of all pending claims.

No fees are believed due as the total number of pending claims remains less than 20 and the total number of pending independent claims is 3. However, the Director is hereby authorized to charge any fees which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 13-2855, under Order No. 29618/39225B. A duplicate copy of this paper is enclosed.

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Respectfully submitted,

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